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Comm of PA v. Bolick

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 05-1917

COMMONWEALTH OF PENNSYLVANIA

v.

THOMAS M. BOLICK,
Appellant

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 04-cv-03990)
District Judge: Honorable Jan E. DuBois

Submitted Under Third Circuit LAR 34.1(a)
September 13, 2005

Before: SLOVITER, BARRY and FISHER, Circuit Judges

(Filed: September 20, 2005)

OPINION

PER CURIAM.

In 1981, Appellant Thomas M. Bolick was convicted in Northumberland County, Pennsylvania, of bank robbery and sentenced to a term of imprisonment (2½ to 10 years) that has long since expired. In recent years, and despite the expiration of his sentence,

Bolick has sought to challenge his conviction by seeking post-conviction review in state court. After his last such unsuccessful attempt, Bolick filed a Notice of Removal in the United States District Court for the Eastern District of Pennsylvania, seeking to bring his criminal proceeding (or at least the post-conviction review proceedings) to federal court.

By order entered March 16, 2005, the District Court, inter alia, vacated the Notice of Removal and dismissed the action with prejudice, finding a lack of federal jurisdiction and noting that 28 U.S.C. § 1441 provides no basis for the removal of the state criminal proceeding. Bolick timely filed this appeal.¹

After a review of the record, we will affirm for the reasons stated by the District Court. In sum, the removal notice was improper and correctly rejected. Bolick has presented no viable argument on appeal to question the propriety of the District Court's judgment.

¹Bolick also timely filed a motion for reconsideration, which the District Court denied by Order entered March 23, 2005. Because Bolick did not file a timely appeal or amended notice of appeal from the March 23 Order, we lack jurisdiction to review the denial of reconsideration, and therefore confine our review to the denial of the Notice of Removal. See Fed. R. App. P. 4(a)(4)(B)(ii).